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In re Application of	:	
Paul Edmonds	:	DECISION ON
Application No.: 09/889,911	:	
Int. Filing Date: 21 January 1999	:	REQUEST UNDER
Priority Date: 21 January 2000	:	
Attorney's Docket No.: 09872-002003	:	37 CFR 1.497(d)
For: UNIVERSAL INTERFACE FOR VOICE	:	
ACTIVATED ACCESS TO MULTIPLE	:	
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This is a decision on applicants' "REQUEST FOR ADDITION OF INVENTOR" filed on 06 May 2004, which is being treated under 37 CFR 1.497(d) naming additional inventors, Stephen Co and David Weinstein, in the executed declaration.

BACKGROUND

On 17 July 2002, the petition under 37 CFR 1.137(b) was granted. However, at that time no executed declaration or oath was submitted.

On 03 July 2003, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by International application number and international filing date must be submitted within two months from its 03 July 2003 date of mailing or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 10 February 2004, applicants faxed true copies of the "Response to Notification of Missing Requirements" filed on 30 September 2003. This was evidenced by a copy of the "Express Mail" receipt No. EV 321 387 291 US.

On 06 April 2004, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF DEFECTIVE RESPONSE" (Form PCT/DO/EO/916) indicating that the oath or declaration does not comply with 37 CFR 1.497(a) and (b) in that it is executed by inventors not listed on International Application.

On 10 June 2003, applicants filed a "REQUEST FOR ADDITION OF INVENTOR," which included, *inter alia*, a statement under 37 CFR.1.497(d) adding Stephen Co and David Weinstein who were not originally listed in the PCT application.

DISCUSSION

A submission under 37 CFR 1.497(d) must include:

- (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
- (2) the fee set forth in § 1.17(I); and
- (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see 37 CFR §3.73(b) of this chapter).

A review of the application file reveals that applicants have satisfied items (1) - (2) under 37 CFR 1.497(d) but not requirement (3).

With respect to item (1), the statements submitted on 06 May 2004 by Stephen Co and David Weinstein are sufficient because the statements state that the error in inventorship occurred without a deceptive intent.

With respect to item (2), the processing fee of \$130.00 has been paid by check.

With respect to item (3), the assignee, Openwave Systems, Inc. consents to the addition of Stephen Co and David Weinstein. However, there is no copy of the executed assignment to the assignee in the file. To establish the right of Assignee to take action, applicants must submit a copy of the executed assignment or specify the reel and frame number. Note MPEP 324 and 37 CFR 3.73(b).

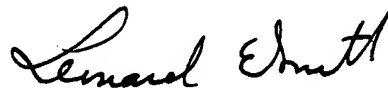
For the reasons above, the request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. The proper reply is either a proper request under 37 CFR 1.497(d) overcoming the above stated defects. The failure to provide the proper reply will result in Abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.497(d)". Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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